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Attorney Docket No.: 3247/NJJ (058201-00050)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor: SCOTT P. SCHREER
Confirmation No. 3357
Serial No.: 10/086,089
Filed: February 28, 2002
Title: IMPROVED SYSTEM AND METHOD FOR ACCESSING....
Examiner: Jason P. Salce
Group Art Unit: 2623

July 17, 2007

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22314-1450

SUPPLEMENTAL DECLARATION UNDER RULE 1.132

I, Nasir Memon hereby declare as follows:

1. I am the same individual that has given a previous declaration under Rule 1.132 in this prosecution, dated October 12, 2006. My credentials, background, technical capability, and a copy of my CV was submitted therein.

2. I provide this additional declaration in response to the examiner's office action dated February 20, 2007. I have studied the examiner's office action, specifically the Response to Arguments, where he comments upon my previous declaration, and have also reviewed the

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additional sections referred to by the examiner in the Ginter reference, as well as the additional claim rejections he has provided in this official action.

3. The examiner has indicated that the claim is broad in that there is no claim limitation that teaches where exactly in the network the monitoring is taking place. I do not believe that the specific location where the monitoring station resides is significant with respect to the invention. The significance of the invention is that the monitoring is done by receiving the broadcast after it has been broadcast. The specific physical location of the monitoring station is not significant. The significance is that the monitoring is done after it is broadcast. That means monitoring can be anywhere where the broadcast is received.

4. Additionally, the present application consistently refers to a monitoring station indicating the presence of a single monitoring station and not a plurality of them. Accordingly, these two facts are understood by one skilled in the art to envision a single monitoring station, located anywhere in the broadcast domain which receives the broadcast as it is being transmitted to the audience.

5. As I previously indicated, a clear distinction between the prior art referred to by the examiner and the present invention is that in the present invention, once the information is broadcast, even if no user has his receiver on and no one actually receives the particular music or information broadcast, there is still a monitoring and receiving of the fact that the music or other information has been broadcast, based upon the fact that the sender has broadcast the information. Thus, even if no one is actually receiving and using it, it will still be counted as a broadcast.

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In the prior art, especially Ginter, if there is no specific user who has requested the information and is actually receiving it, there will be absolutely no recording of the information.

6. In support of his argument, the examiner has referred to the Ginter prior art reference again. He specifically refer to col. 3, lines 24-33 as allegedly teaching that the VDE system provides a system to monitor and detect the use of commercial information using various types of distribution methods, including digital broadcast.

I have carefully reviewed col. 3, lines 24-33 and they do not mention monitoring and broadcast. In fact, the subsequent teachings all involve monitoring at each and every recipient of the broadcast, contrary to the examiner's assertion.

7. The examiner has further referred to col. 147, lines 34-64 in connection with Fig. 25 C, which the examiner alleges teaches multiple intermediate points in the network that monitor the usage of each object.

Again I have carefully reviewed this section. As far as I can detect, this section describes a data structure for keeping track of usage of a specific content. It does not appear to have anything to do with the location where the usage is being monitored, as the examiner suggests.

8. I have reviewed the claims as they have been currently amended and are included within the accompanying amendment. I believe that these amendments clearly bring out distinctions between the present amendment and the references cited by the examiner. They again point out that the monitoring station receives the broadcast which is sent out to the public. Whether the public receives it or not, so long as the monitoring station receives the broadcast, it

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already records the data regardless of whether there is a specific subscriber requesting the information or a specific user who has subscribed or requested the information.

9. Furthermore, I believe that as one skilled in the art, all of the language of the claim is adequately supported by the specification. Particularly, I have found support on the last two lines of page 7 indicating that the information is "solely" from the broadcast; page 8, line 16 which points out that currently there is no way to detect when the performances are getting broadcast; page 9, line 5, pointing out that the monitoring is just of the broadcast itself; page 12, lines 9-10 indicating that the monitoring station receives the broadcast; page 12, lines 19-20 indicating that the encoding is received by the monitoring means; and page 14, line 3, pointing out that the ID number from the monitoring station is then utilized to identify the title.

10. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: 7/11/07


Nasir Memon

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